



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
[www.newtonma.gov](http://www.newtonma.gov)


Candace Havens  
Director

## WORKING SESSION MEMORANDUM

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**DATE:** April 19, 2013

**TO:** Alderman Marcia T. Johnson, Chairman  
Members of the Zoning and Planning Committee

**FROM:** Candace Havens, Director of Planning and Development   
James Freas, Chief Planner, Long-Range Planning

**RE:** #127-13: ALD. GENTILE, HARNEY, & SANGIOLO proposing to amend Chapter 30, Section 15(c)(1)b) of the City of Newton Zoning Ordinances by increasing the lot size from "at least five thousand (5,000) square feet of area" to "at least seven thousand (7,000) square feet of area".

**MEETING DATE:** April 22, 2013

**CC:** Board of Aldermen  
Planning and Development Board  
Donnalyn Kahn, City Solicitor

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### INTRODUCTION

Section 15(c) of the Newton Zoning Ordinance allows property owners owning single, undeveloped, non-conforming lots relief from any increases in the dimensional requirements of the lot or setbacks from those requirements which applied at the time of the creation of the lot as long as certain conditions are met (see ordinance language below). Section 15(c)(1)b) requires that such lots be a minimum of 5,000 square feet in order to be granted this relief. This requirement mirrors that of the Massachusetts General Laws chapter 40A, Section 6, which is referenced in this section of the zoning ordinance. Increasing the minimum required lot size to 7,000 square feet would constitute a diminishment of the protection afforded (i.e., fewer lots would be protected) from that which is currently in Newton's Zoning Ordinance and from what is required by Chapter 40A. While the City may increase the level of protection offered to its citizens through its local ordinances as compared to what is required by State law, for example by reducing the minimum to 4,000 square feet, the City cannot

decrease the level of protection; therefore, the Planning Departments recommends the Committee concur that no action is necessary (NAN) on petition #77-13.

Newton Zoning Ordinance: Section 30-15(c)

*(c) Exceptions Applicable in Residential Districts.*

*Any increase in area, frontage, or setback requirements prescribed in Table 1 of this section shall apply to any lot in a residential zoning district except to the extent that either the provisions of Massachusetts General Laws, Chapter 40A, Section 6, as in effect on January 1, 2001, or the following provisions, provide otherwise.*

*Any increase in area, frontage, or setback requirements prescribed in Table 1 of this section shall not apply to any lot in a residential district if all of the following requirements are met:*

*(1) At the time of recording or endorsement, whichever occurred sooner, or on October 11, 1940 if the recording or endorsement occurred before October 11, 1940, the lot*

*a) conformed to the requirements in effect at the time of recording or endorsement, whichever occurred sooner, but did not conform to the increased requirements, and*

*b) had at least five thousand (5,000) square feet of area, and*

*c) had at least fifty (50) feet of frontage.*

*(2) The size or shape of the lot has not changed since the lot was created unless such change complied with the provisions of section 30-26.*

*(3) Either*

*a) The lot was not held in common ownership at any time after January 1, 1995 with an adjoining lot or lots that had continuous frontage on the same street with the lot in question,*

*or*

*b) If the lot was held in common ownership at any time after January 1, 1995 with an adjoining lot or lots that had continuous frontage on the same street with the lot in question, such lot had on it a single family or two-family dwelling.*